

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

☐ Individual appearing without attorney  
☒ Attorney for: Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

In re:

CASE NO.: 2:18-bk-23361-RK

CHAPTER: 11

## NOTICE OF SALE OF ESTATE PROPERTY

Debtor(s).

**Sale Date:** 03/25/2020

**Time:** 11:00 am

**Location:** 255 E. Temple Street, Courtroom 1675, Los Angeles, California 90012

**Last date to file objections: 03/11/2020**

Industrial real property located at 190 North Thorne Avenue, Fresno, California 93706 [APN 458-250-02]

Please see attached Notice.

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

**Overbid procedure (if any):**

Please see attached Notice.

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

March 25, 2020  
11:00 a.m.  
255 E. Temple Street  
Courtroom 1675  
Los Angeles, California 90012

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Juliet Y. Oh, Esq.  
Levene, Neale, Bender, Yoo & Brill L.L.P. (Counsel for Debtor)  
10250 Constellation Blvd., Suite 1700, Los Angeles, CA 90067  
Tel: (310) 229-1234  
Email: JYO@LNBYB.com

Nicholas Audino  
Pearson Realty, Inc. (Broker)  
7480 N. Palm Avenue, Suite 101, Fresno, CA 93711  
Tel: (559) 447-6270  
Email: NAudino@pearsonrealty.com

Date: 03/04/2020

RON BENDER (SBN 143364)  
JULIET Y. OH (SBN 211414)  
TODD M. ARNOLD (SBN 221868)  
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.  
10250 Constellation Boulevard, Suite 1700  
Los Angeles, California 90067  
Telephone: (310) 229-1234  
Facsimile: (310) 229-1244  
Email: RB@LNBYB.COM; JYO@LNBYB.COM; TMA@LNBYB.COM

Attorneys for Chapter 11 Debtor and Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re:

ZACKY & SONS POULTRY, LLC, a  
California limited liability company,

Debtor and Debtor in Possession.

Case No.: 2:18-bk-23361-RK

Chapter 11

**NOTICE OF DEBTOR'S MOTION FOR  
ENTRY OF AN ORDER: (A)  
AUTHORIZING SALE OF DEBTOR'S  
REAL PROPERTY LOCATED AT 190  
NORTH THORNE AVENUE, FRESNO,  
CALIFORNIA 93706 [APN 458-250-02],  
FREE AND CLEAR OF LIENS, CLAIMS,  
ENCUMBRANCES AND INTERESTS;  
AND (B) APPROVING OVERBID  
PROCEDURES**

Hearing:

Date: March 25, 2020

Time: 11:00 a.m.

Place: Courtroom "1675"

255 E. Temple Street

Los Angeles, California 90012

**TO THE HONORABLE ROBERT N. KWAN, UNITED STATES BANKRUPTCY  
JUDGE, THE UNITED STATES TRUSTEE, THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS AND ITS COUNSEL, SECURED CREDITORS, AND  
PARTIES REQUESTING SPECIAL NOTICE:**

**PLEASE TAKE NOTICE** that a hearing will be held on March 25, 2020, at 11:00 a.m., before the Honorable Robert N. Kwan, United States Bankruptcy Judge for the Central District of California, Los Angeles Division, in Courtroom “1675” located at 255 East Temple Street, Los Angeles, California 90012, for the Court to consider the motion (the “Motion”) filed by Zacky & Sons Poultry, LLC, the debtor and debtor-in-possession in the above-captioned Chapter 11 bankruptcy case (the “Debtor”), seeking the entry of an order pursuant to 11 U.S.C. § 363(b) and (f) and Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”): (A) authorizing the Debtor to sell the industrial real property located at 190 North Thorne Avenue, Fresno, California 93706 [APN 458-250-02] (the “Thorne Property”), free and clear of all liens, claims, encumbrances, and interests, and in accordance with the terms and conditions set forth in the *Standard Offer, Agreement And Escrow Instructions For Purchase Of Real Estate* (the “Purchase Offer”) and the *Addendum* to the Purchase Offer (the “Addendum,” and together with the Purchaser Offer, the “Purchase Agreement”), true and correct copies of which are attached as Exhibit “1” to the Declaration of Nicholas Audino annexed to the Motion (the “Audino Declaration”); and (B) approving the proposed overbid procedures for the sale of the Thorne Property, as described in the Motion (the “Overbid Procedures”). The complete relief requested and the bases for the Motion are set forth in the Motion and the Memorandum of Points and Authorities, Audino Declaration and the Declaration of Lillian Zacky annexed to the Motion.

**PLEASE TAKE FURTHER NOTICE** that the Debtor is seeking authority to sell the Thorne Property to Kulwant S. Romana (including his designee or assignee, the “Purchaser”), on an “as is, where is” basis with no representation or warranty as to the condition of the Thorne Property, and with no contingencies, for cash in the sum of \$475,000 (the “Purchase Price”), subject to overbid. As reflected in the Purchase Agreement, the Purchaser has agreed to be

1 exclusively responsible for escrow fees and costs charged by Fidelity National Title (the  
2 “Escrow Company”) in connection with the sale of the Thorne Property, all title premiums and  
3 other related costs required for issuance of an owner’s title insurance policy for the Thorne  
4 Property, the cost of recording the deed, and any and all transfer, sales, use, purchase, value  
5 added, excise, personal property, intangible stamp, registration or similar taxes or fees imposed  
6 on, or resulting from, the transfer of the Thorne Property. As further reflected in the Purchase  
7 Agreement, *the Purchaser’s offer to purchase the Thorne Property is not subject to any*  
8 *contingencies.*

9 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion, the Debtor seeks  
10 authority to sell the Thorne Property to the Purchaser, free and clear of liens, claims  
11 encumbrances and interests. Based upon a preliminary title report obtained for the Thorne  
12 Property on February 10, 2020, a true and correct copy of which is attached as Exhibit “4” to the  
13 Audino Declaration, there are no liens, claims or other encumbrances against the Thorne  
14 Property. However, based upon a search on the County of Fresno Auditor-Controller Treasurer-  
15 Tax Collector website (a true and correct copy of which search result is attached as Exhibit “5”  
16 to the Declaration of Lillian Zacky annexed to the Motion (the “Zacky Declaration”), there  
17 appears to be outstanding secured property taxes totaling approximately \$8,977.23 due for the  
18 Thorne Property.

19 **PLEASE TAKE FURTHER NOTICE** that, in order to maximize the value obtained  
20 by the Debtor for the Thorne Property, the Debtor is seeking Court approval of the following  
21 Overbid Procedures in connection with the proposed sale of the Thorne Property:

22 1. **Overbid Requirements.** Any party interested in submitting an overbid for  
23 the Thorne Property (“Overbid”) must, not later than 4:00 p.m. (Pacific time) on Friday,  
24 March 20, 2020 (the “Overbid Deadline”), deliver such Overbid in writing to counsel for  
25 the Debtor (Juliet Y. Oh, Esq., Levene, Neale, Bender, Yoo & Brill L.L.P. (“LNBYB”),  
26 10250 Constellation Blvd., Suite 1700, Los Angeles, California 90067, Email:  
27 JYO@LNBYB.com, Facsimile (310) 229-1244), in accordance with the requirements set  
28 forth below:

1           a.       The purchase price for the Thorne Property in any Overbid must  
2           be in the sum of at least \$480,000. Any Overbid must otherwise be substantially  
3           on the same terms and conditions set forth in the Purchase Agreement.

4           ii.       Each party submitting an Overbid must, by the Overbid Deadline:  
5           (x) deliver a signed purchase offer together with the form Addendum (or a revised  
6           version thereof, with a redline comparing the revised Addendum to the original  
7           Addendum submitted by the Purchaser), (y) deliver a deposit in a sum equal to  
8           twenty percent (20%) of the purchase price proposed to be paid pursuant to the  
9           Overbid (the “Deposit”), in the form of a cashier’s check made payable to the  
10          Debtor and delivered to LNBYB or a wire transfer payment to a client trust account  
11          designated by LNBYB, so that such Deposit is actually received by LNBYB by the  
12          Overbid Deadline, and (z) deliver to LNBYB proof of committed funds available to  
13          the bidder sufficient to enable such bidder to consummate the sale of the Thorne  
14          Property, which proof shall be in the form of a bank account statement, letter of  
15          credit, loan commitment or other form acceptable to the Debtor in the Debtor’s  
16          reasonable discretion. In the event that the bidder fails to timely make the Deposit  
17          or timely provide proof of committed funds, or the Debtor determines, in its  
18          reasonable discretion, that the proof of funds delivered to LNBYB is unacceptable,  
19          the Debtor may disqualify such bidder from participating in the Auction (as that  
20          term is defined below). In the event that the Debtor exercises its reasonable  
21          discretion and disqualifies a bidder from participating in the Auction, the Deposit  
22          made by such bidder (if any) shall be promptly returned to the bidder.

23          2.       **Auction.** If one or more qualified Overbids are received in accordance  
24          with the Overbid Procedures described herein, an auction of the Thorne Property  
25          (“Auction”) shall be conducted at the date and time of the hearing on the Motion.

26          3.       **Bidding At Auction.** If at least one qualified bidder who has submitted an  
27          Overbid appears at the Auction, the Debtor and LNBYB shall designate what they  
28          determine to be the best and highest Overbid(s) received for the Thorne Property to be

1 the leading bid(s) at the Auction. Thereafter, the Debtor and LNBYB shall solicit better  
2 and higher bids for the Thorne Property, in bidding increments to be determined by the  
3 Debtor and LNBYB at the Auction, from the qualified bidders participating in the  
4 Auction (including the Purchaser, if he chooses to participate) until the best and highest  
5 bid(s) for the Thorne Property has been determined by the Debtor and LNBYB.

6 4. **Backup Bidder.** In the event that there is at least one qualified overbidder  
7 at the Auction, the qualified bidder(s) who submits the second best/highest bid(s) for the  
8 Thorne Property at the Auction shall be designated as the backup bidder. In the event  
9 that the successful bidder(s) for the Thorne Property cannot timely complete the  
10 purchase of the Thorne Property, the Debtor shall be authorized to proceed with the sale  
11 of the Thorne Property to the backup bidder(s) without further notice, hearing or order of  
12 the Court.

13 5. **Closing Of Sale And Forfeiture Of Deposits.** The winning bidder(s)  
14 shall have until the first business day that is seven (7) days after the date of entry of an  
15 order granting this Motion (the "Sale Order") to consummate the sale of the Thorne  
16 Property. If the winning bidder fails to do so, the winning bidder will be deemed to have  
17 forfeited his/her/its Deposit unless the Court or the Debtor agrees to provide the winning  
18 bidder with an extension of time to close the sale. If the winning bidder fails to close  
19 and forfeits his/her/its Deposit, the backup bidder will be notified and will then have  
20 until the first business day that is seven (7) days after the date of such notification to  
21 close his/her/its purchase of the Thorne Property or will be deemed to have forfeited  
22 his/her/its Deposit unless the Court or the Debtor agrees to provide such backup bidder  
23 with an extension of time to close the sale. The Deposit(s) of the backup bidder(s) will  
24 be retained by LNBYB following the conclusion of the Auction and will be returned to  
25 the backup bidder(s) on the earlier to occur of (i) the closing by the winning bidder(s) of  
26 his/her/its purchase of the Thorne Property, or (ii) April 30, 2020, unless the backup  
27 bidder(s) has forfeited his/her/its Deposit(s) pursuant to the terms and conditions set  
28 forth in the Purchase Agreement.

1           **PLEASE TAKE NOTICE** that the proposed sale of the Thorne Property to the  
2 Purchaser (subject to overbid) will generate what the Debtor believes is unencumbered cash of  
3 **at least \$465,000** (after payment of outstanding secured property taxes) for the benefit of the  
4 Debtor's creditors. Given the recent high level of interest generated by the Broker for the  
5 Thorne Property, the Debtor believes this is the most opportune time to sell the Thorne Property  
6 for the maximum value possible. Moreover, given that the offer from the Purchaser is not  
7 subject to any contingencies whatsoever, the Debtor is confident that the sale of the Thorne  
8 Property to the Purchaser (or a successful overbidder) will be consummated without delay after  
9 the entry of a Court order approving such sale. The Debtor therefore submits that the proposed  
10 sale of the Thorne Property to the Purchaser (or a successful overbidder) is amply justified by  
11 sound business purposes and is in the best interests of the Debtor's estate and creditors.

12           **PLEASE TAKE FURTHER NOTICE** that the Motion is based upon 11 U.S.C. § 363,  
13 Bankruptcy Rules 2002, 6004, 9014 and 9019, this Notice of the Motion, the Motion and the  
14 Memorandum of Points and Authorities, Audino Declaration and Zacky Declaration annexed  
15 thereto, the entire record of the Debtor's bankruptcy case, the statements, arguments and  
16 representations of counsel to be made at the hearing on the Motion, and any other evidence  
17 properly presented to the Court at, or prior to, the hearing on the Motion.

18           **PLEASE TAKE FURTHER NOTICE** that a complete copy of the Motion and all  
19 supporting documents may be requested in writing to counsel for the Debtor, Levene, Neale,  
20 Bender, Yoo & Brill L.L.P., 10250 Constellation Blvd., Suite 1700, Los Angeles, California  
21 90067, Attention: Juliet Y. Oh, Fax: (310) 229-1244, Email: JYO@LNBYB.com.

22           **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-  
23 1(f), any interested party that wishes to oppose the relief requested in the Motion must, not later  
24 than fourteen (14) days prior to the scheduled hearing date set forth above, file with the Clerk of  
25 the Bankruptcy Court and serve upon counsel for the Debtor (whose name and address are set  
26 forth on the upper left-hand corner of the first page of this Notice) and the Office of the United  
27 States Trustee, "[a] complete written statement of all reasons in opposition thereto ...,  
28 declarations and copies of all photographs and documentary evidence on which the responding



1 party intends to rely, and any responding memorandum of points and authorities.”

2 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-  
3 1(h), the failure to file and serve a timely opposition to the Motion may be deemed by the Court  
4 to constitute consent to the relief requested in the Motion.

5 Dated: March 4, 2020

ZACKY & SONS POULTRY, LLC

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7  
8 By: \_\_\_\_\_

9 RON BENDER  
10 JULIET Y. OH  
11 TODD M. ARNOLD  
12 LEVENE, NEALE, BENDER, YOO  
13 & BRILL L.L.P.  
14 Attorneys for Chapter 11 Debtor and  
15 Debtor-in-Possession  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **March 4, 2020**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Todd M Arnold tma@lnbyb.com
- Jessica L Bagdanov jbagdanov@bg.law, ecf@bg.law
- Hagop T Bedoyan hagop.bedoyan@mccormickbarstow.com, terry.douty@mccormickbarstow.com
- Ron Bender rb@lnbyb.com
- Scott E Blakeley seb@blakeleyllp.com, ecf@blakeleyllp.com
- Cathrine M Castaldi ccastaldi@brownrudnick.com
- Carol Chow carol.chow@ffslaw.com, easter.santamaria@ffslaw.com
- Louis J. Cisz lcisz@nixonpeabody.com, jzic@nixonpeabody.com
- Cynthia M Cohen ccohen@brownwhitelaw.com
- Joseph Corrigan Bankruptcy2@ironmountain.com
- John Cumming jcumming@dir.ca.gov
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- Crystle Jane Lindsey crystle@wsrlaw.net, crystle@cjlw.com;brian@wsrlaw.net;gabby@wsrlaw.net
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- Arjun Sivakumar asivakumar@brownrudnick.com
- Lindsey L Smith lls@lnbyb.com, lls@ecf.inforuptcy.com
- Valerie Smith claims@recoverycorp.com

- Alan G Tippie atippie@sulmeyerlaw.com,  
atippie@ecf.courtdrive.com;pdillamar@sulmeyerlaw.com
- Darren P Trone tronelaw@msn.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
- Steven K Vote svote@wjhattorneys.com, btippie@wjhattorneys.com
- Riley C Walter ecf@w2lg.com
- Daniel J Weintraub dan@wsrlaw.net,  
vinnet@ecf.inforuptcy.com;brian@wsrlaw.net;gabby@wsrlaw.net
- Claire K Wu ckwu@sulmeyerlaw.com,  
mviramontes@sulmeyerlaw.com;ckwu@ecf.courtdrive.com;ckwu@ecf.inforuptcy.com
- Hatty K Yip hatty.yip@usdoj.gov
- Bruce J Zabarauskas bruce.zabarauskas@tklaw.com, wanda.sneed@tklaw.com

**2. SERVED BY UNITED STATES MAIL:** On **March 4, 2020**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service List served by U.S. Mail attached

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **March 4, 2020**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Served by Attorney Service**

Hon. Robert N. Kwan  
United States Bankruptcy Court  
Edward R. Roybal Federal Building  
255 E. Temple Street, Suite 1682  
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

March 4, 2020

Stephanie Reichert

/s/ Stephanie Reichert

Date

Type Name

Signature